

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 3073 of 1997****For Approval and Signature:****HONOURABLE MR.JUSTICE K.A.PUJ**

1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

PRATAPBHAI NENABHAI VAGHARI & 5 - Petitioners
Versus
STATE OF GUJARAT - Respondent

Appearance :

MR VH DESAI for Petitioners.

MR KT DAVE, AGP for Respondent.

CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 14/08/2006

ORAL JUDGMENT

- 1.The petitioners have filed this petition under Article 226 of the Constitution of India seeking direction to the respondent to take appropriate decision and to decide the representation dated 09/11.05.1992 as per the order passed by this Court in Special Civil Application No. 6045 of 1993.
- 2.This Court has issued rule on 22.04.1997 making it returnable on 06.05.1997 and directed the concerned Secretary to remain present in the Court on the returnable date and to file an affidavit as to why the directions issued by the Court in Special Civil Application No. 6045 of 1993 are not complied with.
- 3.It appears that after the rule was issued and aforesaid direction was given, the matter has not come on board and no affidavit-in-reply has been filed.

4. It is the case of the petitioners that Padhrol Gram Panchayat has passed resolution in the year 1982 that Survey No. 168, 169 and Block No. 235, 236 shall be given to the petitioners for the purpose of growing berry trees in the gauchar land as per the 20 point programme of the Government of Gujarat. Since 1982, the petitioners were earning their livelihood from about 400 berry trees. Thereafter other community people have moved the competent authority and raised dispute that Panchayat is not a competent authority to pass such resolution. The petitioners approached Special Secretary (Revenue) and they have submitted a written representation dated 09.11.1992 requesting to regularise the said land. Since the representation was not decided by the Government, the petitioners have filed Special Civil Application No. 6045 of 1993 and this Court while disposing of the said petition, directed the respondent to decide the said representation as expeditiously as possible. After the order

passed by this Court on 07.07.1993 in Special Civil Application No.6045 of 1993, the petitioners have made another representation on 13.09.1993. However, no decision was taken on the said representation and hence, the petitioners were constrained to file the present petition before this Court.

5.Mr. K.T. Dave, learned Assistant Government Pleader appearing for the respondent State has submitted on the basis of the parawise remarks that pursuant to the order passed by this Court on 07.07.1993 in Special Civil Application No. 6045 of 1993, the District Collector vide his letter dated 29.10.1993 has informed the petitioners that one Mr. Dayaji Thakore and other petitioners have filed Special Civil Application No. 2189 of 1992 before this Court and the said petition was pending and hence, till the said petition was disposed of, no decision could be taken on the basis of the directions issued by the Court to decide the representation of the

petitioners. Mr. Dave has further submitted that this Court has disposed of Special Civil Application No. 2189 of 1992 on 16.03.1994 whereby the said petition was dismissed. He has, therefore, submitted that by all probability, after the aforesaid petition was dismissed by this Court, the representation of the petitioners must have been decided by the authority. In any case, necessary directions may be issued to decide the said representation.

6. After having gone through the memo of petition, the order passed by this Court in Special Civil Application No. 6045 of 1993 and after having taken into consideration the submissions made by Mr. Dave to the effect that the petitioners were informed earlier about the pendency of Special Civil Application No. 2189 of 1992 and that the said petition was dismissed on 16.03.1994, the Court is of the view that there is nothing in the way of the respondent

authority to decide the representation of the petitioners made on 9/11.05.1992 or 13.09.1993, if it has not been decided so far. The Court, therefore, directs the respondent authority to decide the earlier representation made by the petitioners on 9/11.05.1992, pursuant to the order passed by this Court on 07.07.1993 in Special Civil Application No. 6045 of 1993 and also the representation dated 13.09.1993, as expeditiously as possible, preferably within a period of three months from the date of receipt of a writ from this Court or certified copy of this order whichever is earlier. If the representation has not been decided so far, the respondent authority shall grant an opportunity of personal hearing to the petitioners and in that event, it is open for the petitioners to make submissions before the authority and if such submissions are made, the same should be taken into consideration while passing any order on the representation.

7. Subject to the aforesaid direction, this petition is accordingly disposed of without any order as to costs.

[K.A. PUJ, J.]

Savariya